

### REMARKS

The application was originally filed with claims 1-38. In the current response, claims 1, 19 and 35 have been amended. Accordingly, claims 1-38 are pending and at issue.

#### Response to the §102 rejections

First, applicants respectfully submit the rejection of claim 1 as allegedly anticipated by U.S. Patent 137,496 (Snow) and U.S. Patent 86,002 (Coffman) is rendered moot. Applicants respectfully submit that neither *Snow* nor *Coffman* discloses each and every element of claim 1, as amended, and therefore, fails to anticipate.<sup>1</sup>

Specifically, claim 1 as amended recites “a fluidization mechanism for delivering fluid to the gypsum based product, the fluid traversing from near the bottom wall toward the top wall; and an agitator...pivotally connected internally to the housing for reciprocating movement between first and second positions.”

In contrast, *Snow* discloses an oil still having a tank A and a dasher D that is hung from and is supported by swinging hangers C. The dasher is moved about during the distillation of petroleum oils to maintain a uniform admixture of the heavier and lighter components of the oil. *Coffman* discloses a churn for use in making butter from cream. The churn includes a dasher operatively connected to a flywheel via a linking mechanism. As the flywheel turns, the linking mechanism reciprocates the dasher within the housing causing the cream to surge within the housing.

Neither of these references, however, discloses a fluidization mechanism for delivering fluid to gypsum based product or a fluidization mechanism having fluid that traverses from near the bottom wall toward the top wall. In fact, neither *Snow* nor *Coffman* disclose a fluidization mechanism at all. Additionally, the *Coffman* dasher is not connected internally to the housing of the churn, pivotally or otherwise.

As a result, applicants respectfully request withdrawal of the anticipation rejection of claim 1 and its dependent claims with respect to *Snow* and *Coffman*.

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<sup>1</sup> "Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Rockwell International Corp. v. United States*, 47 USPQ2d 1027 (Fed. Cir. 1998).

Second, applicants respectfully submit that the rejection of pending claim 19 as allegedly anticipated by *Snow* and *Coffman* is moot. Similar to claim 1, claim 19 as amended recites “a fluidization mechanism for delivering fluid to the gypsum based product, the fluid traversing from near the bottom wall toward the top wall; [and] an agitator frame pivotally connected internally to the housing for reciprocating movement between first and second positions.”

As discussed in detail above, neither *Snow* nor *Coffman*, however, discloses a fluidization mechanism for delivering fluid to gypsum based product or a fluidization mechanism having fluid that traverses from near the bottom wall toward the top wall. Accordingly, applicants respectfully request withdrawal of the anticipation rejection of claim 19 and its dependent claims with respect to *Snow* and *Coffman*.

Third, applicants respectfully submit that the rejection of claim 35 as allegedly anticipated by U.S. Patent 4,965,031 (*Conroy*) is moot. Applicants respectfully submit that *Conroy* fails to disclose each and every element of claim 35, as amended, and therefore, fails to anticipate.

Specifically, claim 35 as amended recites “[a] method for agitating a gypsum based material comprising the steps of: ...fluidizing the material by flowing fluid through the material; and agitating the fluidized material with an agitation mechanism having a cross section of generally similar shape to a cross section of the housing.”

*Conroy*, as can best be determined, discloses a gypsum board production method including a tank for mixing gypsum slurry. A mixer having a shaft and paddles at an end thereof is disposed in the tank for mixing the slurry. In contrast, the present method includes having an agitation mechanism having a cross section of generally similar shape to a cross section of the housing.

As a result, applicants respectfully request withdrawal of the anticipation rejection of claim 35 and its dependent claims with respect to *Conroy*.

Response to the §103 rejections

Claims 8-11 and 24-29 have been rejected as allegedly being obvious over *Snow* in view of *Coffman* and claims 36-37 have been rejected as obvious over *Conroy* in view of U.S. Patent 4,457,628 (Kataishi). In light of the above arguments and amendments, these rejections are moot.

Conclusion

In view of the above, applicants submit that the application is in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. The Commissioner is authorized to charge any fee deficiency required by this paper, or credit any overpayment, to Deposit Account No. 13-2855.

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Respectfully submitted,

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